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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/609,252

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Kenyon A. Hapke

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EXAMINER

PERRIN, JOSEPH L

ART UNIT

PAPER NUMBER

1746

DATE MAILED: 12/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/609,252

Applicant(s)

HAPKE ET AL.

Examiner

Joseph L. Perrin, Ph.D.

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 10 October 2006 have been fully considered but they are not persuasive.

Turning to the rejection(s) of the claims under 35 U.S.C. § 102, it is noted that the terminology in a pending application's claims is to be given its broadest reasonable interpretation (*In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989)) and limitations from a pending application's specification will not be read into the claims (*Sjolund v. Musland*, 847 F.2d 1573, 1581-82, 6 USPQ2d 2020, 2027 (Fed. Cir. 1988)).

Anticipation under 35 U.S.C. § 102 is established only when a single prior art reference discloses, either expressly or under the principles of inherency, each and every element of a claimed invention. See *Constant v. Advanced Micro-Devices, Inc.*, 848 F.2d 1560, 1570, 7 USPQ2d 1057, 1064 (Fed. Cir.), cert. denied, 488 U.S. 892 (1988); *RCA Corp. v. Applied Digital Data Sys., Inc.*, 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984). Moreover, anticipation by a prior art reference does not require either the inventive concept of the claimed subject matter or the recognition of properties that are inherently possessed by the prior art reference. *Verdegaal Brothers Inc. v. Union Oil co. of California*, 814 F.2d 628, 633, 2 USPQ2d 1051, 1054 (Fed. Cir. 1987), cert. denied, 484 U.S. 827 (1987). A prior art reference anticipates the subject matter of a claim when that reference discloses each and every element set forth in the claim (*In re Paulsen*, 30 F.3d 1475, 1478-79, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994)).

and *In re Spada*, 911 F.2d 705, 708, 15 USPQ2d 1655, 1657 (Fed. Cir. 1990)); however, the law of anticipation does not require that the reference teach what Applicant is claiming, but only that the claims "read on" something disclosed in the reference. *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984) (and overruled in part on another issue), *SRI Intel v. Matsushita Elec. Corp. Of Am.*, 775 F.2d 1107, 1118, 227 USPQ 577, 583 (Fed. Cir. 1985). Also, a reference anticipates a claim if it discloses the claimed invention such that a skilled artisan could take its teachings in combination with his own knowledge of the particular art and be in possession of the invention. See *In re Graves*, 69 F.3d 1147, 1152, 36 USPQ2d 1697, 1701 (Fed. Cir. 1995), cert. denied, 116 S.Ct. 1362 (1996), quoting from *In re LeGrice*, 301 F.2d 929, 936, 133 USPQ 365, 372 (CCPA 1962).

2. Re the §102 rejection over CASE, applicant argues that due to the orientation of the hook and lid "there is no possibility that opening of the lid will generate torque on the pivot of the hook so the benefits of the present hook design, in which the force of opening of the lid does not generate a rotational torque about the hook pivot, is neither suggested nor taught." The Examiner disagrees. Regarding applicant's "wherein" clause, the Examiner notes that MPEP 2111.04 clearly states "[c]laim scope is not limited by claim language that suggests or makes optional but does not require steps to be performed, or by claim language that does not limit a claim to a particular structure." In the instant case, applicant's wherein clause simply states the intended function of a contact interface "selected to prevent a force urging an opening of closed lid from

exerting a torque about the first axis tending to move the hook to the second position” and does not limit the claim to a particular structure (i.e. as argued by applicant). The Examiner notes this suggestive language reads on any contact preventing a hook to rotate, such structure necessarily “preventing” the hook from rotating thereby preventing a rotational torque. Simply stated, the contact interface structure of CASE prevents rotational torque of the hook and reads on applicant’s claimed apparatus. Accordingly, recitation of CASE reads on applicant’s claimed apparatus.

3. Re the §102 rejection over HAPKE, for claim 11 applicant points to the Figures of HAPKE and the Figure 8 of the present invention arguing in the present invention “lifting of the lid 12 will provide no net torque on the hook 30”. This is not persuasive for reasons already indicated re CASE and such argument does not structurally distinguish the claimed invention over the prior art. For claim 17, applicant points to Figures 6 & 9 and argues that spring 40 of HAPKE “tends to urge the hook toward the unlocked position.” The Examiner disagrees. Firstly, the spring mechanism of which the Examiner relies, spring mechanism 70 in Figures 12-13, clearly performs bidirectional biasing around axis 25 in a first position, clearly illustrated in Figure 12, and a second position, clearly illustrated in Figure 13. Accordingly, recitation of HAPKE reads on applicant’s claimed apparatus.

4. Re the §103 rejection of claim 16, applicant argues that one having ordinary skill in the art would not provide a hook and lid with limited engagement but would rather “generally prefer an arbitrarily deep engagement”. The Examiner disagrees. Following this logic would suggest it would be beneficial to provide a loose lid lock of the washing

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machine which would allow washing machine water to leak out of the lid due to an inadequately secured lid. Clearly, one of ordinary skill in the art would have known to provide limited engagement to keep the lid secured and prevent opening of the lid and prevent leakage of the lid during operation. Thus, the position is maintained that it would be well within the level and skill of one having ordinary skill in the art to provide "limited" engagement when performing a locking operation to prevent any opening of a washing machine lid and the simple change in shape and size of the tooth and engagement shoulders to provide a tighter fit would be an obvious modification to achieve this.

5. Re the §103 rejection of claim 17, applicant argues against PAUL stating applicant "is unable to identify the sliding contacts that would anticipate the first element of the present invention seeing only contacts that essentially move apart and together on spring levers." The Examiner notes that PAUL is replete with such teachings of the claimed contact set including a sliding contact over a stationary contact positioned next to a cam surface, for instance, as described in the abstract, Figures 2, 4, 7 and relative associated text). Thus, such sliding switch mechanism is taught by PAUL.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 11-16 & 22-24 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In claim 11, applicant's recitation of a "first axis" of a hook and a "second axis" of a lid opening "generally along a second axis crossing the first axis" is considered new matter. The scope of such limitation is not supported in the original disclosure as filed. While such axes are adequately disclosed as being perpendicular the claimed limitation of the axes "generally crossing" (which encompasses direct crossing) is not supported in the original disclosure as filed and therefore is considered as failing to comply with the written description requirement under 35 U.S.C. §112, first paragraph.

Claim Rejections - 35 USC § 102

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

9. Claims 11-15 & 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over HAPKE. As shown in Figures 5-11 and relative associated text, HAPKE discloses a washing machine lid lock comprising a hook with a tooth (37) for engaging a lid aperture (14) with the hook being pivotable in a first, locked position and a second, open position, a bidirectional solenoid actuating mechanism (45/46/49/52) which moves the hook between the first and second

positions, a spring mechanism (70; Figures 12-13) communicating with the hook for biasing the hook towards the first position when the hook is proximate the first position and biasing the hook towards the second position when the hook is proximate the second position, a contact set with first and second terminals (55/56) which provide a closed circuit when the hook is in the first position and an open circuit when the hook is in the second position, and moving the aperture along a tangent line with the lid and the hook lies along the tangent line as extended in a direction opposite the direction of movement of the aperture. While HAPKE appears to implicitly disclose the hook and lid axes as readable on “generally ... crossing”, HAPKE does not clearly disclose the axes configuration. However, given the structural configuration and the fact that such axes of a square/rectangular lid would only be one of two species configurations of the genus, one were to construe as HAPKE only reading on parallel and not perpendicular the position is taken that one having ordinary skill in the art would have at once envisaged either of the two possible species configurations in order to arrive at applicant’s invention. It has been held that a genus may be so small that, when considered in light of the totality of the circumstances, it would anticipate the claimed species or subgenus. For example, it has been held that a prior art genus containing only 20 compounds and a limited number of variations in the generic chemical formula inherently anticipated a claimed species within the genus because “one skilled in [the] art would... envisage each member ” of the genus. *In re Petering*, 301 F.2d 676, 681, 133 USPQ 275, 280 (CCPA 1962) (emphasis added). Even if, arguendo, one were to construe HAPKE as not anticipating a “crossing” or “perpendicular” hook and lid axes, the position is taken

that it would have been obvious to one having ordinary skill in the art at the time the invention was made to rearrange the lock configuration from the hook axes being one of parallel and perpendicular to the other, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

10. Claims 11-15 are rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over CASE. CASE discloses a washing machine lid lock (10) comprising a hook with a tooth (69) for engaging a lid aperture (18) with the hook being pivotable in a first, locked position and a second, open position, a bidirectional actuating mechanism (44) which moves the hook between the first and second positions, a contact set with first and second terminals (35/39) which indicates when the hook is in the first position as distinguished from when the hook is in the second position, and moving the aperture along a tangent line with the lid and the hook lies along the tangent line as extended in a direction opposite the direction of movement of the aperture (see entire document, for instance, Figures 1-4 and relative associated text). CASE also teaches that it is known to use solenoids as the bidirectional actuating mechanism (see col. 1, lines 42-55). While CASE appears to implicitly disclose the hook and lid axes as readable on "generally ... crossing", CASE does not clearly disclose the axes configuration. However, given the structural configuration and the fact that such axes of a square/rectangular lid would only be one of two species configurations of the genus, one were to construe as CASE only reading on parallel and not perpendicular the position is taken that one having ordinary skill in

the art would have at once envisaged either of the two possible species configurations in order to arrive at applicant's invention. It has been held that a genus may be so small that, when considered in light of the totality of the circumstances, it would anticipate the claimed species or subgenus. For example, it has been held that a prior art genus containing only 20 compounds and a limited number of variations in the generic chemical formula inherently anticipated a claimed species within the genus because "one skilled in [the] art would... envisage each member " of the genus. *In re Petering*, 301 F.2d 676, 681, 133 USPQ 275, 280 (CCPA 1962) (emphasis added). Even if, *arguendo*, one were to construe CASE as not anticipating a "crossing" or "perpendicular" hook and lid axes, the position is taken that it would have been obvious to one having ordinary skill in the art at the time the invention was made to rearrange the lock configuration from the hook axes being one of parallel and perpendicular to the other, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

Claim Rejections - 35 USC § 103

11. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

12. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over HAPKE or CASE. Recitation of HAPKE & CASE are repeated here from above. Although HAPKE & CASE disclose a pivotable hook which engages a lid aperture, HAPKE &

CASE do not expressly disclose the hook and aperture sized such that the flanking shoulders of the hook rest against the sides of the aperture. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the size and shape of the hook and aperture, since such a modification would have involved a mere change in the size or shape of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955). A change in form or shape is generally recognized as being within the level of ordinary skill in the art. *In re Dailey*, 149 USPQ 47 (CCPA 1976).

13. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over HAPKE in view of PAUL. Recitation of HAPKE & CASE are repeated here from above. Although HAPKE discloses conventional contact switching, HAPKE does not expressly disclose using sliding/lateral movement with camming action to provide contact switching. PAUL teaches that it is known in the appliance door lock art to provide sliding/lateral movement with camming action to provide opening and closing contact switching. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use any equivalent known contact switching mechanism since applicant has not disclosed that sliding contact switching solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with other contact switches and the selection of any of these known equivalents to provide contact switching in an appliance door lock would be within the level of ordinary skill in the art.

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

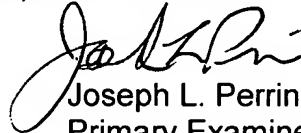
15. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph L. Perrin, Ph.D. whose telephone number is (571)272-1305. The examiner can normally be reached on M-F 7:00-4:30, except alternate Fridays.

17. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael E. Barr can be reached on (571)272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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18. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Joseph L. Perrin, Ph.D.
Primary Examiner
Art Unit 1746

JLP